

Message Text

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C O N F I D E N T I A L TANANARIVE 1598

E.O. 11652: GDS

TAGS: NASA, TSPA, MA

SUBJECT: NASA STATION NEGOTIATIONS

NASA FOR CODE T

REFS: A. TANANARIVE 1579; B. TANANARIVE 1582

BEGIN SUMMARY: WE RECOMMEND U.S. APPROACH TO NASA STATION NEGOTIATIONS BE AIMED AT OBTAINING POINTS OF REAL SIGNIFICANCE TO U.S.: EXEMPTION OF STATION EQUIPMENT FROM GOMR TAXES AND DUTIES, BETTER DEFINITION OF RELATIVE RESPONSIBILITIES OF NASA STATION DIRECTOR AND P&T MANAGER, EMERGENCY CLAUSE ALLOWING ENTRY AMERICAN TECHNICIANS WITHOUT 30-DAY NOTICE TO GOMR, AND REINSERTION OF SAVINGS CLAUSE ON U.S. APPROPRIATIONS. ON THER GOMR CHANGES WE RECOMMEND ACCEPTANCE IN SEVERAL CASES AND POSSIBLE, BUT NOT ADAMANT, EFFORT IN OTHER CASES TO BRING GOMR CLOSER TO U.S. DESIDERATA. ACTION REQUESTED: DEPT APPROVAL OF THIS APPROACH TO RESUMPTION OF NEGOTIATIONS. END SUMMARY.

1. WE BELIEVE THAT U.S. APPROACH TO NEGOTIATION ON GOMR DRAFT OF NASA AGREEMENT SHOULD BE AIMED AT OBTAINING POINTS OF REAL SIGNIFICANCE TO US. WE SHOULD AT SAME TIME BE PREPARED TO CONCEDE THOSE GOMR CHANGES WHICH ARE ESSENTIALLY OPTICAL AND HAVE PROBABLY BEEN MADE FOR
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INTERNAL POLITICAL PURPOSES. WE SHOULD ALSO CONCEDE

CHANGES WHICH MAKE NO REAL DIFFERENCE TO US OR WHICH WOULD BE SELF-DEFEATING TO CONTEST.

2. WE RECOMMEND U.S. AIM TO ACHIEVE FOLLOWING MAIN SIGNIFICANT POINTS:

(A) EXEMPTION OF STATION EQUIPMENT, SUPPLIES, ETC., FROM TAXES AND DUTIES BY REINSERTION INTO AGREEMENT AT END FIRST PARA OF ART. 5 OF FOLLOWING SENTENCE: "NO TAX, DUTY OR CHARGE OF A FISCAL CHARACTER SHALL BE LEVIED OR ASSESSED ON THE SAID SCIENTIFIC OR TECHNICAL MATERIALS, EQUIPMENT AND SUPPLIES, BROUGHT INTO AND USED IN MADAGASCAR, THE LIST OF WHICH SHALL BE DRAWN UP BY MUTUAL AGREEMENT." REASON: HIGH COST OF SUCH DUTIES AND TAXES TO NASA. FOR EXAMPLE, IN 1973 STATION EQUIPMENT IMPORTS WERE VALUED BY NASA STATION AT ABOUT \$2 MILLION, AND IMPORT DUTIES, TAXES AND TRANSACTIONS TAX THEREON WOULD BE SUBSTANTIAL (E.G., 51-55 PERCENT ON RADIOTELEPHONE TRANSMITTERS AND RECEIVERS). NASA STATION ALSO ESTIMATES THAT TAXES ON GASOLINE, DIESEL, AND LUBE OILS USED BY STATION WOULD RUN AT ABOUT \$100,000 PER YEAR AND VEHICLE REGISTRATIONS ATVZ
TNRTPM

(B) BETTER DEFINITION OF RESPONSIBILITIES OF AND RELATIONSHIP BETWEEN NASA STATION DIRECTOR AND P&T STATION MANAGER IN ART. 7(A). WE SHALL MAKE SPECIFIC RECOMMENDATION AFTER RECEIVING TEXTS OF PROVISIONS ON THIS POINT FROM NASA STATION AGREEMENTS WITH OTHER COUNTRIES, AS REQUESTED
REF A.

(C) EXCEPTION FOR EMERGENCY PURPOSES FROM REQUIREMENT FOR 30-DAY NOTICE TO GOMR ON ENTRY OF AMERICAN STATION PERSONNEL BY INSERTION AT END OF FIRST SENTENCE OF ART. 8(A) OF GOMR DRAFT OF PHRASE "EXCEPT IN CASE OF AN EMERGENCY."

(D) RETENTION OF SAVINGS CLAUSE ON APPROPRIATIONS BY REINSERTION INTO GOMR DRAFT OF ART. 10 OF OLD AGREEMENT AND RENUMBERING ART. 10 OF GOMR DRAFT AS ART. 11.

3. WE RECOMMEND ACCEPTANCE OF FOLLOWING CHANGES:
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(A) CLAUSE ADDED BY GOMR TO ART. 8(B) ABOUT INTERNAL DUTIES AND TAXES. WHILE THIS COULD COST NASA UP TO \$165,000 PER YEAR DURING INTERIM PERIOD BEFORE AMERICAN CONTRACTOR PERSONNEL PHRASED OUT, WE BELIEVE WE DO NOT HAVE LEG TO STAND ON IN ARGUING FOR DROPPING THIS CLAUSE. OLD AGREEMENT CONTAINED NO CLAUSE WHATSOEVER ON INTERNAL DUTIES OR TAXES, AND GOMR COULD AT ANY TIME APPLY THEM

UNDER THAT AGREEMENT. IT IN FACT DOES APPLY INCOME TAXES EVEN TO FOREIGN PERSONNEL WORKING IN MADAGASCAR UNDER TECHNICAL ASSISTANCE GRANTS (WHO PROVIDE MORE DIRECT BENEFIT TO MADAGASCARXTUBMINASA STATION DOES). BEST WAY OF TRYING CONTINUE AVOID PAYMENT OF INTERNAL TAXES IS TO LET CLAUSE PROPOSED BY GOMR STAND AND FOR EMBASSY/NASA CONTINUE TO DEAL WITH SAME OFFICIAL IN MINISTRY ECONOMY AND FINANCE WITH WHOM WE HAVE DEALT IN PAST. OBVIOUSLY EVEN THAT PROSPECT PROBABLY NOT GOOD FOR FUTURE, BUT IT IS ONLY ONE WE CAN OFFER ON THIS POINT.

(B) GOMR ELIMINATION OF EMERGENCY PROVISION FROM ART. 3(B) SINCE NASA STATION NO LONGER POSSESSES ITS OWN COMMUNICATIONS EQUIPMENT.

(C) NASA STATION DIRECTOR STATES HE CAN ACCEPT GOMR REQUIREMENT IN ART. 5(A) TO USE LOCAL SUBCONTRACTORS.

(D) GOMR LANGUAGE CHANGES IN FIRST PARAGRAPH ART. 8(B) SINCE THEY DO NOT APPEAR BRING ABOUT ANY ALTERATION IN PRESENT ACTUAL PRACTICES WITH RESPECT BENDIX PERSONNEL.

(E) GOMR ELIMINATION ART. 9(C) OF NASA DIRECTOR'S CONCURRENCE ON ACCESS TO STATION SINCE IT COULD NOT IN PRACTICE BE WITHHELD.

(F) GOMR NON-SUBSTANTIVE LANGUAGE CHANGES IN ART. 11 OF OLD AGREEMENT.

4. THERE REMAIN THREE CHANGES EFFECTED BY GOMR DRAFT ON WHICH WE COULD TRY NEGOTIATE REVISION, BUT ON WHICH WE SHOULD BE PREPARED YIELD, IF NECESSARY, IN ORDER ACHIEVE OBJECTIVES LISTED PARA 2 ABOVE.

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(A) WE SHOULD TRY REVERT FROM SPECIFIC REQUIREMENT IN ART. 5 OF GOMR DRAFT FOR PRIOR GOMR AGREEMENT FOR REEXPORT OF NASA STATION EQUIPMENT TO OLD AGREEMENT'S REQUIREMENT IN ART. 6(A) OF 30 DAYS WRITTEN NOTICE FOR REEXPORTATION. HOWEVER, IT SHOULD BE NOTED THAT OLD AGREEMENT IS ACTUALLY AMBIGUOUS ON THIS SCORE AS LAST SENTENCE OF ART. 5 CAN BE INTERPRETED AS NOW REQUIRING GOMR AGREEMENT FOR REMOVAL OF EQUIPMENT FROM MADAGASCAR.

(B) WE CAN TRY REINSERT SOME LANGUAGE IN ART. 7 WITH RESPECT TO CIVILIAN CONTRACTOR, BUT WE BELIEVE THIS IS DELETION MADE BY GOMR FOR OPTICAL POLITICAL REASONS. IT SEEMS CLEAR BOTH FROM TALKS WITH GOMR OFFICIALS AND FROM LANGUAGE IN ARTS. 7(B) AND 8(A) OF GOMR DRAFT THAT IT

RECOGNIZES CONTINUED NEED FOR USE OF AMERICAN TECHNICIANS
AT STATION.

(C) WE CAN ALSO TRY REINSERT IN ART. 7 SOME OF QUALIFYING LANGUAGE
FROM U. SM DRAFT ON MALAGASIZATION; BUT AGAIN WE SUSPECT
THIS IS CHANGE GOMR MADE FOR OPTICAL POLITICAL REASONS.
IT IS CLEAR FROM TALKS WITH GOMR OFFICIALS THAT THEY DO
NOT IN FACT EXPECT TOTAL MALAGASIZATION BY END 1976.

5. SINCE SECRETARY GENERAL, MINISTRY OF TERRITORIAL
DEVELOPMENT, IN FORWARDING GOMR DRAFT LABELLED IT AS
"COUNTER-PROPOSAL (WHICH) CAN SERVE AS BASIS FOR OUR
NEXT DISCUSSION," AND HAS INDICATED READINESS PROCEED
WITH EXPECTED RETURN THIS WEEKEND OF DIRECTOR P&T, WE
REQUEST DEPT AUTHORIZATION PROCEED ON ABOVE LINES IN
NEGOTIATIONS. AMBASSADOR PLANS DEPART NOV 3 ON LEAVE
IN EUROPE AND U.S. AND CONSULTATION IN WASHINGTON IN
EARLY DEC, BUT WILL ALSO ENDEAVOR PRIOR DEPARTURE TALK
WITH MINISTER TERRITORIAL DEVELOPMENT GENERAL ANDRIAMHAZO
ON MAIN POINTS ABOVE IF DEPT SO AUTHORIZES.

6. NASA STATION DIRECTOR CONCURS IN ABOVE.
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